

# MEMO ENDORSED

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

X

Doc # 14

BRIAN FIELMAN, on behalf of himself and all  
others similarly situated,

Plaintiff,

v.

PEPSICO, INC., THE PEPSI BOTTLING GROUP,  
INC., and PEPSI BOTTLING VENTURES LLC,

Defendant.

07 CIV 6815 (CLB)

NOTICE OF MOTION

ECF FILING

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, the Declaration of Diane Petroccione, dated September 18, 2007, and the exhibit annexed thereto, Defendants PepsiCo, Inc., The Pepsi Bottling Group, Inc. and Pepsi Bottling Ventures LLC will move this Court before the Honorable Charles L. Brieant at the United States District Court for the Southern District of New York, Courtroom 218, 300 Quarropas Street, White Plains, New York 10601, on November 30, 2007 at 10:00 a.m. or as soon as counsel may be heard, for an Order, pursuant to Fed. R. Civ. P. 12(b)(6), dismissing this action for failure to state a claim for which relief can be granted.

*Motion W. Petroccione to be re-instated after filing of the Consolidated Amended Complaint. See 7/19/07 L.F.D. NO ORDER RE ED Charles L. Brieant U.S.D.J.*

PLEASE TAKE FURTHER NOTICE that, pursuant to stipulation entered into by the parties on August 22, 2007, responsive papers, if any, are due on October 22, 2007, and reply papers, if any, are due on November 9, 2007.

Dated: September 19, 2007  
New York, New York

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